

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Bail Appl..No. 6523 of 2007()

CRMP.3545/2007 of DISTRICT COURT, PALAKKAD
CRIME NO.402/07 OF VADAKKENCHERRY POLICE STATION, PALAKKAD
.....

: PETITIONERS/ACCUSED NOS.1 & 2

1. SUNIL, AGED 26 YEARS,
S/O MUTHU, POOCHAMTHODI,
MANAPPADADM, ALATHUR, PALAKKAD DISTRICT.
2. BALAKRISHNAN, AGED 24 YEARS,
S/O AMMINI, PUTHAN VEEDU,
KIZHAKKEKKARA, MANAPPADAM, ALATHUR,
PALAKKAD DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, VADAKKENCHERRY POLICE
STATION, PALAKKAD, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.6523 of 2007

Dated this the 30th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether there are 3 accused persons now. Initially allegations were raised against 4 accused persons. One of them has by now been dropped from the array of accused. Allegations are seen raised for offences punishable, inter alia, under Sections 354 and 326 I.P.C. Section 326 I.P.C is the only non bailable offence alleged. The defacto complainant is a retired police official of the Tamil Nadu service. He had allegedly come to the native place of his wife. His wife was allegedly indecently assaulted. He questioned the same. Later, the miscreants allegedly came armed with sticks and mounted an attack on the defacto complainant. The defacto complainant was taken to the doctor. Before that doctor, there is no allegation of any injury to the tooth. Later, he was referred to another hospital and there we find that there is an allegation of loss of tooth. The records reveal only a fracture of the tooth. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations are totally false. There is some dispute between the

neighbours and the defacto complainant. The retired police official is only trying to compound the situation by making unnecessary allegations. The theory of loss of tooth is absolutely false. The medical records immediately on admission of the defacto complainant reveal that he had not complained of any ailment or injury to the tooth. In any view of the matter, the learned counsel for the petitioners submits that the petitioners are entitled for anticipatory bail as the allegations under Section 326 I.P.C, the only non bailable offence, cannot inspire confidence. The defacto complainant is only trying to make aggravated allegations by bringing in this allegation of 326 I.P.C.

3. The learned Public Prosecutor does not oppose the application, but only prays that appropriate conditions may be imposed to facilitate a fair, efficient and expeditious investigation.

4. I am satisfied, in the circumstances indicated above that the petitioners are entitled for grant of anticipatory bail. Appropriate conditions can of course be imposed.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 06.11.07. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only)

each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 4 p.m on 07.11.2007 & 08.11.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 06.11.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 06.11.07.

(R.BASANT, JUDGE)

rtr/-

